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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/491,304	01/25/2000	Wade J. Walterscheid	12204/04701	8373

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EXAMINER

THOMAS, ALEXANDER S

ART UNIT PAPER NUMBER

1772

DATE MAILED: 09/24/2002 //

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/491,304

Applicant(s)

WALTERSCHEID, WADE J.

Examiner

Alexander S. Thomas

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 and 42-58 is/are pending in the application.
- 4a) Of the above claim(s) 17-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 39, 40 and 42-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 1772

1. Claims 39, 41 and 58 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's arguments have been considered but are not deemed persuasive. The original disclosure is only directed to "cardboard" or "other materials". Applicant states that there are many types of cardboard and that one type, "Davey Board" is "good enough to withstand severe stresses" and then concludes from these facts that the term "substantially rigid" is not new matter. However there is no original disclosure directed to the specific cardboard, "Davey Board" and furthermore it is not seen how the phrase "good enough to withstand severe stresses" equates to "substantially rigid". Similarly the term "other materials" is a generic term which can cover any material both rigid and non-rigid. Applicant cannot expect to be able to add any property of any "other material" to the claims of the application and not have it be considered new matter (matter not present in the original disclosure)?

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 9-11, 39, 40, 42, 44, 49 and 58 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Brooks. See column 2, lines 17-23.

Art Unit: 1772

4. Claims 1-3, 7, 39, 40, 42, 43, 47 and 58 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bauer. See column 4, lines 23-40.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-16, 39, 40 and 42-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills in view of Bauer. The primary reference discloses the invention substantially as claimed; see column 1, lines 54-56 and column 6, lines 27-40. The seam 68 may be considered the scored outer layer and the door layers 58, 60 may be considered the perforated panel and a flap detach from a fixed portion. However the primary reference does not disclose adhering the outer layer onto the padding inner layer or the presence of more than one hinge line. Bauer discloses adhering the outer scored layer onto an inner padding layer in a similar article; see column 4, lines 23-40. It would have been obvious to one of ordinary skill in the art to adhere the outer layer of the article in the primary reference to its padding layer in view of the teaching in Bauer to provide the desired structural integrity to the laminate. It would also have been obvious to one of ordinary skill in the art to add a second set of break lines if an additional air bag was desired in the automobile. Applicant acknowledges that push fasteners are well known in the art, therefore, it would have been obvious to one of ordinary skill in the art to use a well known fastener, such as a push fastener, in the

article of the primary reference depending on the desired structural integrity of the connection between the laminate and the automobile.

7. Claims 8, 16, 48 and 57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "push-type" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "push-type"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

8. Claims 50-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no antecedent basis for the terms "second flap", "second force", "second hinge", etc. in the claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander S. Thomas whose telephone number is 703-308-2421. The examiner can normally be reached on M-F 6:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Application/Control Number: 09/491,304
Art Unit: 1772

Page 5

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to read "Alexander S. Thomas". The signature is fluid and cursive, with the first name "Alexander" being more prominent than the last name "Thomas".

ALEXANDER S. THOMAS
PRIMARY EXAMINER

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September 18, 2002